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Leg

17 July 1989
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NOTE FOR: Director of Security

FROM:

[REDACTED]
Deputy Director for Legislation
Office of Congressional Affairs

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SUBJECT: Ethics Law/Law Enforcement Credit

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[REDACTED]

Early last week we had a brief chat at the entrance to the Headquarters Building. At that time you asked me about the implementation date of the new Act. Attached is a copy of an article that briefly summarizes the legislation and indicates that it went into effect, Sunday, 16 July 1989 (Weekly Federal Employee's News Digest, 10 July 1989).

I am also providing a copy of an article reporting a decision by the Court of Appeals for the Federal Circuit wherein CIA service was not credited for law enforcement time. I do not know the facts and OGC may well be on top of this matter, but you may want to see if it is of any concern, particularly, since our SPO's do have law enforcement authority (Weekly Federal Employee's News Digest, 3 July 1989).

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Attachments

OCA/LEG/[REDACTED] (17 July 1989)

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WEEKLY FEDERAL EMPLOYEES' NEWS DIGEST

THE NEWS THIS WEEK: *No Second Delay Of Ethics Law Expected • APWU Wins Battle Against Sears • Health Program Probed • Stock Fund Paces Thrift Options • TVA Offers Variety Of Perks • Top Execs Vote With Their Feet • Across-The-Board Raise Needed, Says SEA • GPO Pay Bargaining Blueprint For Rest Of Government? • Four-Day Postal Pilot Program • Agency Need Not Pay Expenses For Attending FLRA Hearing*

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July 10, 1989

NO SECOND DELAY OF ETHICS LAW EXPECTED

A new ethics law for federal procurement personnel, already delayed for 60 days because of confusion and misunderstanding, won't be delayed again and will take effect July 16, Capitol Hill sources say.

The two-month delay was designed so that employees potentially affected by the new law could have more time to understand it. Some have used the time to leave government, while others are considering it. Beginning July 16 the hundreds of thousands of employees involved with procurement will have to sign statements saying they understand the law.

The act, passed last year, states that individuals who are "personally and substantially" involved in a procurement contract can't become involved in the same procurement from the other side within two years after leaving government employment. And such persons can't solicit or accept an offer of employment from a competing contractor while a procurement is being conducted. Also, those employees may not accept any type of gift or gratuity from the contractor or disclose any proprietary information regarding the contract to unauthorized persons.

Employees who violate the act (Section 6 of Public Law 100-679) are subject to fines of up to \$100,000 and/or imprisonment of up to five years.

Experts involved in the policy say there has been a great deal of misinformation and needless fear regarding the law. But aides say there is no desire in Congress to provide another delay or to rewrite the law in the near future.

APWU WINS BATTLE AGAINST SEARS

Under extreme pressure from the American Postal Workers Union and other labor interests, Sears Roebuck & Co. has agreed to close its 11 mini-post offices which the union saw as a threat to the jobs of its members. The giant retailer will close its 10 mini-post offices in Chicago and one in Madison, Wis., by October 1.

However, postal officials say they will continue the program by contacting individual merchants in large shopping malls across the country. "We're going right ahead," said Gordon C. Morison, assistant postmaster general for philatelic and retail service. This sets up future confrontations between USPS and APWU.

HEALTH PROGRAM PROBED

General Accounting Office officials have told a congressional panel that a preliminary review of the Federal Employees Health Benefits program found the program vulnerable to embezzlement, commingling of funds and inappropriate program changes in at least six of the largest plans.

The GAO is now conducting a full investigation involving allegations of fraud and abuse among insurance companies participating in the FEHB. Auditors are working at the request of the House Post Office and Civil Service Committee and are expected to have a final report ready by early next year.

Members of the committee have expressed concern that slipshod operation of the program may have resulted in higher premiums and less health coverage for federal and postal workers. One facet of GAO's investigation is the Office of Personnel Management procedures to protect employees from fraud.

The Congressional Research Service has reported that federal and postal employees pay considerably more in premiums than private sector workers and receive substantially fewer benefits. Rep. Gary Ackerman, D-N.Y., chairman of the subcommittee on Compensation and Employee Benefits, has described FEHB as "inefficient, inadequate and confusing . . . and in danger of collapse."

STOCK FUND PACES THRIFT OPTIONS

Among the three investment options of the federal retirement thrift savings fund, the common stock (C) fund is by far the best-yielding to date this year. Reflecting the rise in the stock market, investments in that fund grew by 16.72 percent through May, the thrift fund has said.

The fixed-assets (F) bond fund paid 5.65 percent to that time and the government securities (G) fund paid 3.78 percent. The figures, which include deductions for administrative expenses and other costs, represent actual earnings and are distinct from the annualized rates of return announced by the board each month.

The C and F funds are slightly under-performing the private indexes to which they are linked, but that is due to differences in accounting practices, the board said.

(Continued on page 2)

Noteworthy is the fact that the House Government Operations Committee is the second panel in the House to get involved in the pay reform issue. The other is the one with historical jurisdiction — the Post Office and Civil Service Committee.

REPORTS RAP FOREIGN SERVICE PERSONNEL SYSTEM

Two recent reports have criticized the way foreign service employees are recruited, trained and promoted. The system of grouping employees in occupational groups, called cones, also came in for criticism on grounds that it puts employees in a "straightjacket" that limits their career options.

One study was commissioned by the State Department while the other was undertaken at the request of Congress.

Among the recommendations: raise the period for tenure from four to six years to increase competition; replace the cone system with broader job categories and make it easier for employees to move among them; increase and improve job-related training, and set a more firm timetable for advancement.

NEW HOUSE LEADERSHIP A PLUS FOR FEDERAL INTERESTS

The rebuilding of the House leadership should benefit federal and postal employee and retiree interests through elevating several friendly congressmen to positions of high visibility and influence.

Of the three co-chairmen of the Federal Government Service Task Force, a caucus that pursues federal employee interests, two are now among the House's top five Democratic leaders. Rep. Steny Hoyer, D-Md., is now also the chairman of the House Democratic Caucus, and Rep. Vic Fazio, D-Calif., is the new vice-chairman of that group.

New Majority Whip William Gray, D-Pa., is a member of the federal employment task force as well.

Hoyer and Fazio also hold seats on the House Appropriations Committee, where they have been active supporters of reasonable raises for federal workers.

OPM ISSUES NEW FIRING RULES

The Office of Personnel Management has issued new rules spelling out how agencies must deal with most employees in grades GS-1 through 15, including supervisors and managers in the GM series, who face dismissal or demotion for substandard performance. The new regs, which are effective July 21, require that agencies:

- Notify employees immediately when their work is unacceptable rather than waiting until they are in a rating period.
- Require supervisors to pinpoint their problems.
- Allow employees a chance to correct the problems, and give them help, if necessary, before taking action against them.
- May take action only after the employees have had at least one reasonable opportunity to improve.

The rules do not apply to probationary employees, political appointees, administrative law judges or the senior executive service. And they exempt the U.S. Postal Service, Defense Intelligence Agency, General Accounting Office, National Security Agency and the CIA.

The federal government fires about 15,000 employees a year, including about 400 career, or tenured, employees.

The regs appear in the June 21 *Federal Register*.

In Brief . . .

❑ **Suit Gets Action** — The U.S. Customs Service has temporarily stopped making its employees in "sensitive" positions sign a 10-page questionnaire — SF-86 — used to clear them for secret information. Three unions filed suit to block the requirement on grounds it was an unwarranted invasion of the agency employees' personal lives.

❑ **No Credit** — Time served with the Central Intelligence Agency does not count toward eligibility for early retirement as a federal law enforcement officer, the U.S. Court of Appeals for the Federal Circuit has ruled. The judges said that while the CIA may be involved "tangentially" with enforcing U.S. criminal laws, the agency does not have law enforcement powers required by the retirement law. (*Carew v. Office of Personnel Management*, 89-3081, June 20, 1989)

WEEKLY FEDERAL EMPLOYEES' NEWS DIGEST

DON MACE • Editor
ERIC YODER • Assistant Editor
JOSEPH YOUNG • Publisher

☎ (703) 533-3031 • Facsimile (703) 533-3946
P.O. Box 7528, Falls Church, VA 22046

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